

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 91

BY BUSINESS COMMITTEE

AN ACT

RELATING TO GEOLOGISTS; AMENDING SECTION 54-2804, IDAHO CODE, TO REVISE A PROVISION RELATING TO QUALIFICATIONS FOR BOARD MEMBERSHIP; AMENDING SECTION 54-2808, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE POWERS OF THE BOARD AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 54-2810, IDAHO CODE, RELATING TO RECORD AND REGISTER KEEPING; AMENDING SECTION 54-2818, IDAHO CODE, TO CLARIFY CERTAIN CONTRACT EXCEPTIONS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-2819, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISCIPLINARY GROUNDS AND PROCEEDINGS AND TO PROVIDE AN ADMINISTRATIVE FINE FOR CERTAIN VIOLATIONS; AND AMENDING SECTION 54-2821, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO PROVIDE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2804, Idaho Code, be, and the same is hereby amended to read as follows:

54-2804. QUALIFICATIONS FOR BOARD MEMBERSHIP. Members of the board shall be citizens of the United States and residents of this state, and they shall have been engaged in the practice of geology for at least ~~twelve~~ seven (127) years and shall never have been the subject of a disciplinary action under the provisions of this chapter.

SECTION 2. That Section 54-2808, Idaho Code, be, and the same is hereby amended to read as follows:

54-2808. POWERS AND DUTIES OF BOARD ~~SUBPOENAS~~. (1) The board shall have the power to adopt and amend rules including, but not limited to, a code of ethics and standards of conduct which may be reasonably necessary for the proper performance of its duties and the administration of this chapter and the regulation of proceedings before the board. It shall adopt and have an official seal. It shall have power to provide an office, office equipment and facilities and such books and records as may be reasonably necessary for the proper performance of its duties. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in its interest.

(2) The board is authorized to enter into mutual aid agreements, interstate compacts, contracts or agreements to facilitate the practice and regulation of geology in this state.

(3) In carrying into effect the provisions of this chapter, the board, under the hand of its chairman and the seal of the board, may request the attendance of witnesses and the production of such books, records and papers as may be required at any hearing before it, and for ~~that~~ the purpose of disciplinary matters pursuant to this chapter the board may request a district court to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any

books, records or papers. Subpoenas shall be directed to the sheriff of any county in the state of Idaho where such witness resides or may be found. Subpoenas shall be served and returned in the same manner as subpoenas in a criminal case. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in district court criminal cases, which fees and mileage shall be paid from any funds in the state treasury available therefor in the same manner as other expenses of the board are paid. Disobedience of any subpoena issued by the district court or the refusal by any witness in failing to testify concerning any matter regarding which he may lawfully be interrogated, or the failure to produce any books, records or papers, shall constitute a contempt of the district court of any county where such disobedience or refusal occurs, and said court, or any judge thereof, by proceedings for contempt in said court, may, if such contempt be found, punish said witness as in any other case of disobedience of a subpoena issued from such court or refusal to testify therein.

(4) The board is hereby authorized in the name of the state to apply for relief by injunction in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this chapter or to restrain any violation thereof.

SECTION 3. That Section [54-2810](#), Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 54-2818, Idaho Code, be, and the same is hereby amended to read as follows:

54-2818. STATE AND POLITICAL SUBDIVISION CONTRACTS – EXCEPTIONS. As to geology work performed within the state of Idaho, t~~This~~ state and its political subdivisions, such as county, city, or legally constituted boards, districts, commissions or authorities, shall contract for geological services only with persons registered under this ~~act~~ chapter, provided further that nothing in this section or ~~act~~ chapter shall be construed to prevent registered professional engineers from lawfully practicing soils mechanics, foundation engineering, geological engineering, and other professional engineering, as provided in chapter 12, title 54, Idaho Code, and licensed architects from lawfully practicing architecture as provided in chapter 3, title 54, Idaho Code.

SECTION 5. That Section 54-2819, Idaho Code, be, and the same is hereby amended to read as follows:

54-2819. DISCIPLINE. (1) Grounds for discipline. The board shall have the power to deny any application for or renewal of a certificate of registration or to revoke, suspend or ~~amend any such certificate~~ otherwise discipline any registrant or registration issued pursuant to this chapter and to limit or restrict the practice of any registrant upon a determination by the board that the person:

- (a) Made, or caused to be made, a false, fraudulent or forged statement, document, credentials or representation in procuring or attempting to procure a certificate of registration to practice geology; or
- (b) Practiced geology under a false or assumed name; or
- (c) Was convicted of, found guilty, received a withheld judgment or suspended sentence in this or any other state of action constituting a felony or of a crime involving moral turpitude; or

(d) Violated the provisions of this chapter or rules, standards of conduct and practice, or any ethical codes as may be adopted by the board; or

(e) Is or has been grossly negligent, incompetent, or reckless in the practice of geology; or

(f) Has had a license, certificate, or registration to practice as a professional geologist suspended or revoked in any jurisdiction. A certified copy of the order of suspension or revocation shall be prima facie evidence of such suspension or revocation.

(2) Proceedings. Every person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice.

(a) All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code, and the Idaho rules of administrative procedure of the attorney general (IDAPA 04.11.01).

(b) Hearings shall be conducted by the board or by persons appointed by the board to conduct hearings and receive evidence.

(3) Probation. Any order of the board entered under this section may be withheld or suspended for a probationary period to be fixed by the board upon such terms and conditions as may be appropriate in order to regulate, monitor or supervise the practice of geology by the registrant subject to such order for the prescribed probationary period.

(4) Subsequent review. Any order of the board entered under this section may be withdrawn, reversed, modified or amended upon a showing by the person subject to the order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and competent to practice professional geology and that he is not likely to violate the provisions of this section or rules adopted hereunder in the future.

(5) Costs and fees. The board may, pursuant to an order of discipline or as a condition to withdrawal, reversal, modification or amendment of the order, require the person to pay all or part of the costs and fees incurred by the board in proceedings upon which the order was entered.

(6) Administrative fines. The board may, pursuant to an order of discipline, require the payment of an administrative fine not to exceed one thousand dollars (\$1,000) for each violation of the provisions of this section or rules adopted hereunder.

SECTION 6. That Section 54-2821, Idaho Code, be, and the same is hereby amended to read as follows:

54-2821. VIOLATIONS OF ~~ACT~~ CHAPTER. (1) Any person who shall practice, or offer to practice, professional geology for others in this state without being registered in accordance with the provisions of this ~~act~~ chapter, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or a revoked certificate of registration or practice at any time during a period the board has suspended or revoked a certificate of registration or any person who shall violate any of the provisions of this ~~act~~ chapter, shall be guilty of a misdemeanor.

(2) The board may employ legal counsel or may request the attorney general of this state or any assistant designated by him to act as legal advisor of the board, and the attorney general shall be reimbursed by the board for any expenses incurred by the attorney general

1 in representing the board; and all violations of the provisions of this ~~act~~ chapter shall be
2 prosecuted by the prosecuting attorney of the county or counties in which the violations of
3 the ~~act~~ chapter may be committed.